REMARKS

At the issuance of the Office Action, claims 1-8 and 26-30 are pending in the application with the Office presenting rejections on various grounds for each of these claims.

Amendments to the Specification

The applicant has introduced an amendment to the specification. The applicant respectfully submits that the amendment simply encapsulates the original version of claim 1 and presents the same content using multiple sentences rather than the structure of a claim. As such, the applicant submits that no new matter has been introduced by this amendment.

Status of the Claims

At the issuance of the Office Action, claims 1-8 and 26-30 were pending. The applicant has amended claims 1, 2, 4, 8, 26, 29 and 30 and added new independent claims 31-36. Claims 3 and 27 have been cancelled. Applicant respectfully submits that the above-presented claims, along with the following arguments, address each and every issue raised by the Office or render such issues as moot. Further, the applicant submits that the claims as presented herein are allowable.

Claim Rejections – 35 USC § 103

The Office has rejected claims 1 and 4 under 35 U.S.C 103(a) as being unpatentable over US patent application 2001/0053987 (*Kleinschmidt*) in view of US patent 5,964,700 (*Tallman*).

Overview of the Kleinschmidt reference

Kleinschmidt describes a system, such as an information system for patient groups, particularly for members of a company. The system is described as including a server, which contains the personal data and medical data of a patient and which is connected to a data input device and a data output device. The data input device interfaces to a location-variable data request station of which may use different data

transmission systems. The intelligent data output device produces a data output that is adapted to the type of the station making the request, or corresponding to a user request. In paragraph [0013], *Kleinschmidt* states that the data output is automatically adapted to the type of the dialing location-variable access. For example, if there has been a verbal request via a mobile telephone, the data output device will provide a verbal output of the information – unless something else is explicitly requested at the verbal request – either via at the native-speaking operator or via a speech generation system. *Kleinschmidt* also states that the data is provided with a specific output format, namely a foreign language translation such as of a web page, WAP page, email, text to speech conversion etc.

Overview of the Tallman Reference

Tallman describes a system for matching patient needs with provider services in an efficient manner. The system is described as including a Patient Assessment Component and a Provider Information Component. The Patient Assessment Component is a set of information tools which are used by health care professionals to assess patient conditions and assist in the selection of health care services and to help patients find appropriate care at the appropriate time (col. 4 lines 1-5) The Provider Information Component contains the information necessary to effectively differentiate the various providers participating in a given health network and to manage patient flow into their practices. This component enables a nurse to help patients select an individual doctor, clinic or hospital. (col. 5, lines 5-19)

It should be agreed that the Tallman system is used for nurses or medical staff to assess the condition of a calling patient, not by an end user to obtain his or her medical records or other information. A few passages taken from Tallman as examples of this limitation include the following:

The purpose of the yes-no branched chain algorithm logic of the NMS system and process is neither to diagnose nor to treat medical conditions. Rather, the algorithms logically sort a population of individual who have, by telephone, identified themselves . . . because of a new sign or symptoms which the caller fees is possibly due to an illness or injury, and who are seeking advice on what to do next (col. 8 lines 12-18)

The NMS is intended to be used as the first point of contact for a patient entering the health care system . . . As such, it has been designed to support a range of health care needs including: emergency calls, illness care calls, provider selection calls, health care information calls, callbacks to the patient. When a call is received or a patient transaction begins, a judgment must be made about the caller's needs. (col. 13, lines 1-14). Thus, the only interface to this system is by a person (nurse) that receives a call from a patient and the nurse interacts with the system, not the patient.

From column 13, line 55 and following (including column 26 line 1 to column 27, line 5 which the Office relies upon), Tallman simply provides instructions that would be followed by a nurse or clinician for interfacing to the NMS system to serve a caller (patient).

Thus, it is clear from these references, as well as the entire Tallman reference, that what is described is a medical network management system (NMS) (20) that is used by recipients of calls from patients (health plan beneficiaries) to help assess the health needs and select appropriate care for the caller.

Practically, *Tallman* describes a software tool operating on a work-station to:

enable a trained nurse to sort patients into different risk categories, safely and effectively without requiring a medical diagnosis. Patients can then be guided to an appropriate level and type of care for their problem(s) based on their level of risk and set of potential needs. (col. 4 lines 6-13)

The present application claims a client system operated by a traveler (user) traveling abroad, displaying one or more selection buttons associated with at least one type of medical assistance, receiving a selection, sending a request to a server; and receiving from the server medical assistance associated with the selected button, the medical assistance delivered in a language associated with the foreign country and/or a format customized to the foreign country based upon the request.

(a) Kleinschmidt does not describe, suggest or teach the provision of medical assistance.

Applicant maintains that the data managed and provided by *Kleinschmidt* is limited to personal data, as stated clearly in para [0014]:

> *The server 7 is connected to a database 10, in which the name, address, the communication addresses of the patient and the insurance, the primary physician and all specialists, who have treated the patient earlier, are stored for each patient, as well as medical data such as the blood type, vaccinations, overcome illnesses, normal blood pressure, normal pulse, last EKG, incompatibilities, allergies, acute diseases, prescribed medication and its ingredients, etc.*

The Office argues that the *Kleinschmidt* teaches "personal <u>and medical data</u>" [Abstract, para 14], alleging that "medical data" is equivalent to "medical assistance". Applicant respectfully disagrees. Applicant maintains that according to *Kleinschmidt* para 14 this medical data is strictly <u>personal</u> medical data.

> *[0014] ... as well as medical data such as the blood type, vaccinations, overcome illnesses, normal blood pressure, normal pulse, last EKG, incompatibilities, allergies, acute diseases, prescribed medication and its ingredients, etc.*

Thus, Kleinschmidt teaches providing personal medical data only, to medical staff only. Hence, Kleinschmidt does not provide "medical <u>assistance</u>", and does not provide "medical assistance <u>to a patient traveler</u>". "Medical assistance to a patient traveler" refers to information that the patient needs, not to information that the patient already has, or information that the medical staff needs.

(b) Kleinschmidt does not describe, suggest or teach the provision of medical assistance being delivered in a form selected from the group consisting of a language associated with the foreign country and a format customized to the foreign country based on the request.

Kleinschmidt specifically states that it is a system that is designed to operate in areas that may be under primitive conditions (paragraph [0006]). As such, *Kleinschmidt* is focused on a system that allows various input devices using various communication protocols/systems to communicate with a home server. In contrast, the claimed invention utilizes a single type of client device, a computing device that is

connected to a server via the Internet. This distinction is important in the explanation of one of the elements of claim 1, namely the provision of the medical assistance in a language associated with the foreign country and a format customized to the foreign country based on the request from the user. The user selects a button and this button selection identifies the medical assistance to be provided. Further, the traveler's selection also identifies the language and format of that the medical assistance is delivered. *Kleinschmidt* relies exclusively on identifying the type of input device that is being used to determine the format of the content delivery. The only instance in which the data delivery can be modified is described as being a verbal command delivered by a native-speaking operator or a speech generation system. This is a step that is clearly independent from the request.

The Office concedes further that *Kleinschmidt* does not describe, suggest or teach the elements of displaying one or more selection buttons on a display of the client system, wherein each selection button is associated with at least one type of medical assistance and receiving a selection of one of the selection buttons. The Office tries to overcome this deficiency in *Kleinschmidt* by relying on *Tallman*.

Tallman enables a trained nurse to sort patients into different risk categories and thus *Tallman* does not provide "medical assistance to a patient". As described earlier, Tallman does not present selection buttons to a traveler (user) but rather interfaces with a nurse who in turn, interfaces with a user over the telephone. Further, *Tallman* does not teach selection buttons used by the user to select language or to direct the server to provide medical assistance "customized to the foreign country".

As such, the applicant asserts that the Office has not established its prima facie requirement for establishing an obviousness rejection based on *Kleinschmidt* in view of *Tallman* in that the Office has failed to show that each and every element is disclosed in these references. Further, the applicant asserts that there is no motivation to combine *Kleinschmidt* in view of *Tallman*. *Kleinschmidt* teaches a system used by a patient but fails to describe the service selection buttons as claimed and *Tallman* describes a system that is used by nurses or medical staff when triaging patients. There is absolutely no nexus between these two systems that would suggest the inclusion of user selectable buttons to identify a requested service in a requested language and a requested format. In fact, such an argument actually destroys the

Kleinschmidt reference which relies solely upon the type of device accessing the system, not the request.

Thus, with regards to claim 1, the applicant respectfully requests the Office's consideration in view of these arguments and amendments and submits that claim 1 is allowable over *Kleinschmidt* in view of *Tallman*.

With regards to claim 4, the applicant has amended claim 4 as some of the language has been included in claim 1. However, the Office argues that *Kleinschmidt* discloses sending a request to the server over the Internet stating that "it is obvious that an internet connection is required to deliver a webpage or email". While not debating this point, which certainly is debatable as a web page or email can clearly be sent via facsimile, via regular mail, via video broadcast, etc. However, more important is the point that regardless whether *Kleinschmidt* teaches sending a web page or email over the Internet, it still does not describe, suggest or teach sending a request over the Internet. As such, the applicant asserts that claim 4 is allowable over *Kleinschmidt* in view of *Tallman*.

The Office has rejected claims 2, 3, 26, 27 and 30 under 35 U.S.C 103(a) as being unpatentable over US patent application 20010053987 (Kleinschmidt) in view of US patent 5,964,700 (Tallman) and further in view of US 20040204837 (Singleton).

Singleton teaches a "system for identifying medical facilities along a travel route" [Abstract]. Singleton provides information <u>about</u> medical facilities and services, not actual medical assistance of any type. Singleton system is operated by an airborne crew and thus does not provide information to a patient.

With regards to claim 2, as amended claim 2 has removed the element of providing information on the availability of medical services in the foreign country. In addition to the other deficiencies identified above, the amendment clearly traverses the rejection of claim 2 and as such, the applicant respectfully requests the Office's consideration

With regards to claim 3, claim 3 has been cancelled.

With regards to claims 26 and 30, the present application claims a server, the server including: communication modules operative to provide selection buttons and receive user selection by means of the selection buttons; a database access module; and a web-page generating module; where "the selection received ...determines .. the medical assistance ... delivered in a form selected from ... a language associated with the foreign country and a format customized to the foreign country."

The present application teaches the following:

[0050] The prescription database 240 provides or provides access to a plurality of prescriptions in various languages for pharmacy issued drugs as well as over the counter medication. In addition, prescription database 240 may have a database of drugs that are used all over the world. The drugs may be over the counter (OTC) drugs or drugs that need prescription (RX drugs). ...The appropriate prescription may include instructions in the traveler's language as well as the local language.

[0051] The Sickness (referral) database 250 comprises a plurality of descriptions of common illnesses and symptoms, such as but not limited to: abdominal pains, diarrhea, etc. The description can be provided in two or more languages and can help the traveler to interact and communicate with the foreign medical staff.

The currently amended claim 26 includes the limitation of:

a database access module executing within the server and operative to access a prescription database, wherein such database includes information in at least two languages

The currently amended claim 30 includes the limitation of:

accessing a prescription database, wherein such database includes information in at least two languages

In rejecting claims 26 and 30 Office maintains that "although, the system according to Singleton teaches providing information regarding medical services and facilities available in a foreign location, it would be obvious to one of ordinary skill in

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the art that the system can be configured to deliver other types of medical assistance/services available to a patient traveler in a foreign location".

Hence, Office admits that none of the prior art teaches or even suggests the use of any of a prescription database. The Office simply alleges that such databases are obvious. However, such databases are irrelevant to the applications taught by *Kleinschmidt, Tallman* and *Singleton* and useless to their users. Therefore, a person having ordinary skill in the art should not only suggest databases that are not taught by the prior art but also modify the motivation of the prior art to make appropriate use of these newly added databases, and then provide them with information <u>in at least two languages</u>.

Applicant respectfully submits that claims 26 and 30 are therefore allowable, as well as claims 28-29 depending from claim 26.

Rejecting claim 2 the Office notes that according to *Singleton* para 47 and 55 "the system matches the language of the patient with the language of the staff" and concludes that "It is obvious that the medical consultation would be delivered in the language of the traveler". Applicant notes that it is the <u>staff</u> of the medical facility that would speak the language of the traveler, not *Singleton's* system. Neither *Kleinschmidt* nor *Tallman's* teaches using their systems by the staff to communicate with the patient. In any case, <u>no combination of the prior art</u> may teach providing <u>prescription</u>, <u>referral information</u>, <u>drug consultation</u>, <u>or OTC prescription</u>, by the system, to the patient, in a different language, responsive to button selection.

Applicant respectfully submits that none of the prior art and no combination of the prior art can teach or suggest providing <u>a patient</u> with a <u>translation of a prescription</u>, or <u>medical referral information in the language associated with the foreign country</u>, or <u>drug consultation in a preferred language of the traveler</u>, or <u>over the counter (OTC) prescription available in the foreign country</u>.

Applicant respectfully submits that claims 1, 31 32 and 33 are therefore allowable, as well as claims 2 and 4-8 depending from claim 1.

The Office has rejected claims 5-7 under 35 U.S.C. 103(a) as being unpatentable over *Kleinschmidt* in view of *Tallman* and further in view of US published application 2005/0075909 (*Flagstad*).

As noted above, claims 5-7 depend either directly or indirectly from allowable claim 1 and as such, this rejection is rendered as moot based on the amendments and arguments presented in support of the allowance of claim 1.

The Office has rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over *Kleinschmidt* in view of *Tallman* and further in view of and *Flagstad*.

As noted above, claim 28 depends either directly or indirectly from allowable claim 26 and as such, this rejection is rendered as moot based on the amendments and arguments presented in support of the allowance of claim 26.

The Office has rejected claims 8 under 35 U.S.C. 103(a) as being unpatentable over *Kleinschmidt* in view of *Tallman* and further in view of US Patent 4803625 (*Fu*).

Overview of the Fu reference.

Fu teaches "A personal health monitor includes sensors for measuring patient weight, temperature, blood pressure, and ECG waveform. The monitor is coupled to a central unit via modems and includes a computer which is programmed to prompt a patient to take prescribed medication at prescribed times, to use the sensors to measure prescribed health parameters, and to supply answers to selected questions." [Abstract]. The Office states that *Fu* teaches, in col. 5 lines 6-26, "a medical measurement device that can be attached to the traveler and is operable to take certain medical measurements of the traveler, and the method further comprises the step of taking the certain medical measurements and transferring the certain medical measurements to the server."

In col. 5 lines 6-38 Fu teaches a home unit operative *"to log data indicative of various health parameters of the patient on a schedule prescribed by the attending physician ... and automatically communicates logged information with the central*

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unit based on pre-programmed reporting times plus special reports made in response to triggering events ... The central unit generates reports of logged patient parameters for analysis and response by trained medical personnel"

However, the limitation of *"take certain medical measurements of the traveler"* and *"transferring the certain medical measurements to the server"* should be read in the context of claim 1, that is: *"receiving a selection of one of the selection buttons; sending a request to a server; and the server delivering the medical assistance"*. Evidently neither of *Kleinschmidt, Tallman* and *Fu* discusses a server delivering medical assistance. *Singleton* too does not discuss a server delivering medical assistance.

Even if navigation instructions (*Singleton*) are considered medical assistance, their combination requires that *Kleinschmidt* detects a user's selection of *Tallman* selection button (originally to be used by a trained nurse) initiating *Fu's* log of health parameters being sent to *Singleton's* server that responds with medical navigation directions (not medical assistance) responsive to the selected button and presented by *Kleinschmidt* in the selected language and customized based on the selected country. Not just that this complicated sequence is not taught by any combination of the prior art, it is evidently not obvious even if all its components would have been present in the prior art.

The Office then claims that "though, the limitations of claim 1 are incorporated into claim 8, the recited claim language does not interpret/read that "taking of medical measurements and transferring the medical measurements" are in response or in the context of "receiving a selection", "sending a request to the server" and "delivering the medical assistance".

Applicant amended claims 8 and 29 by explicitly requiring that "the step of taking the certain medical measurements and, <u>responsive to said step of receiving a selection of one of the selection buttons,</u> transferring the certain medical measurements to the server".

This limitation is supported by steps 552 (get traveler's request), 536 (start function task) 632 (invoke measuring task) and 634 (add measuring information and send web page) described in the context of Figs. 5 and 6 in paragraphs 75-82.

The Applicant therefore respectfully submits that claims 8 and 29 are allowable.

The Office has rejected claim 29 under 35 U.S.C. 103(a) as being unpatentable over *Kleinschmidt* in view of *Tallman* and further in view of *Singleton* and *Fu*.

As noted above, claim 28 depends either directly or indirectly from allowable claim 26 and as such, this rejection is rendered as moot based on the amendments and arguments presented in support of the allowance of claim 26. Further, the arguments presented above with regards to claim 8 also apply in the rejection of claim 29.

Newly added claims

The applicant has added new claims 31-36, based on the previously presented claim 1 or claim 26. Claims 31-33 respectively combine the elements of claim 1 with the following limitations taken from claims 2 and 3.

Claim 31
    wherein the medical assistance comprises medical referral information in the language associated with the foreign country.

Claim 32
    wherein the medical assistance comprises online drug consultation in a preferred language of the traveler.

Claim 33
    wherein the medical assistance comprises provision of an over the counter (OTC) prescription available in the foreign country.

Applicant also amended claim 2 and cancelled claim 3.

Claims 34-36 depend from claim 26 and break out the grouping of functions into dependent claims.

Conclusion

In view of the above-presented arguments, the applicants respectfully submit that Claims 1, 2, 4-8 and 26-33 are not anticipated by, or unpatentable over, the cited

art and are not rendered obvious by any combination of the cited references. As such, the applicant submits that these claims are allowable and respectfully request the Office's consideration.

All of the issues raised by the Office have been dealt with. In view of the foregoing, it is submitted that all the claims now pending in the application are allowable over the cited reference. An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,
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